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IDAHO PERSONNEL COMMISSION
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IDAHO PERSONNEL COMMISSION

STATE OF IDAHO

GERALD MOSBRUCKER,

Appellant,

VS.

IDAHO STATE UNIVERSITY,

Respondent.

IPC NO. 99-07

ORDER GRANTING REQUEST FOR VOLUNTARY DISMISSAL OF PETITION FOR REVIEW

THIS MATTER comes before the Commission on Appellant Gerald Mosbrucker's Response to Idaho State University's (ISU) Motion to Dismiss Petition and Memorandum in Support of Motion to Dismiss Petition, which was filed with the Commission on March 6, 2000. A true copy of Mr. Mosbrucker's Response and request that his Petition for Review is attached hereto as Exhibit "A." Mr. Mosbrucker asks the Commission to deny ISU's Motion to Dismiss and allow him to withdraw his Petition for Review. While not specifically stated in those terms, Mr. Mosbrucker essentially asks the Commission to grant him voluntary dismissal of his Petition for Review. The request is GRANTED.

I.

BACKGROUND AND HISTORY

Petitioner, acting *pro se* appealed his dismissal from his employment as a Maintenance Craftsman Senior with ISU. The matter was assigned to a hearing officer. The hearing officer

issued his preliminary order upholding the dismissal on September 3, 1999. Petitioner subsequently filed a Petition for Review with the Commission. The Petition was dated October 11, 1999 and apparently postmarked October 12, 1999. Petitioner was unaware that he was required to provide a transcript to the Commission and there was some delay in receiving said transcript. Accordingly, the Notice of Petition for Review was not issued until February 9, 2000. The Notice of Petition for Review contained a briefing schedule and notice that a hearing on the matter would be held April 14, 2000.

On February 14, 2000, ISU filed its Motion to Dismiss Petition and Memorandum in Support of Motion to Dismiss Petition. ISU asked the Commission to dismiss the Petition for Review on jurisdictional grounds because the Petition for Review was not filed in a timely manner pursuant to IDAPA 28.01.01.202.01 (now IDAPA 15.04.01.202.01). On March 6, 2000, Mr. Mosbrucker filed his response asking that ISU's Motion to Dismiss be denied and that he be allowed to withdraw his Petition for Review. Mr. Mosbrucker also asks that his copy of the "Testimony" be returned to him.

II.

ORDER

Under IDAPA 15.04.01.202.05(b), motions to dismiss for lack of jurisdiction shall be decided by the Commission. All other motions shall be referred by the administrator to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the administrator or counsel to the Commission.

IT IS HEREBY ORDERED that:

1. The Petition for Review filed by the Appellant is dismissed.

2. The transcript of the proceedings before the hearing officer will be returned to the Appellant.

DATED this 6th day of April, 2000.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION

/s/_____
Mike Brassey, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the ORDER GRANTING REQUEST FOR VOLUNTARY DISMISSAL OF PETITION FOR REVIEW in *Mosbrucker v. Idaho State University*, IPC No. 99-07, was delivered to the following parties by the method stated below on the 6th day of April, 2000.

FIRST CLASS MAIL

Bradley H. Hall
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STATEHOUSE MAIL

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Michael Adkins
Deputy Attorney General
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/s/_____
Val E. Rodriguez